THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.17327 of 2006

19.9.2006

Between:

Naganna, S/o.Late Potappa

... Petitioner

AND

The Joint Collector, Anantapur District
And others

... Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.17327 of 2006

ORDER:

The petitioner claims to be illatom son-in-law[1] of one Boya Hanumantha Reddy @ Hanumanthappa. The father-in-law was a rich landlord with two wives. He filed a declaration under the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (the Act, for brevity) before the Land Reforms Tribunal (LRT), Ananthapur. The said declaration registered as C.C.No.2051/75/RDG, was processed and the LRT by order dated 15.09.1976 held Hanumanthappa as surplus landholder. Aggrieved by such declaration he filed an appeal under Section 20 of the Act before the Land Reforms Appellate Tribunal (LRAT), Ananthapur. The appeal was dismissed. Hanumanthappa then filed C.R.P.No.4120 of 1978 before this Court claiming a share for his illatom son-in-law, the petitioner herein. By an order dated 25.1.1979, this Court, while allowing the C.R.P. and remanding the matter to LRT, observed that agricultural wetland in an extent of Acs.25.00 will have to be computed in the holding of the petitioner herein excluding the same from the holding of the declarant. On remand, by an order dated 29.8.1998, the LRT held that an extent of Acs.25.00 is allotted to the petitioner herein. It is also held that the land admeasuring Acs.9.00 in survey No.105, Acs.12.00 in survey No.142/B and Acs.4.00 in survey No.175/A was allotted to him and that Hanumanthappa as surplus landholder. While

the matter was pending before the LRT, Hanumanthappa died and the petitioner and other legal heirs came on record.

The petitioner now alleges that some of the persons in the Village started interfering with the possession alleging that the land in survey Nos.105, 142/B and 175/A situated at Udagolam Village of Kanikal Mandal in Anantapur District is assigned to them. The petitioner then made an application before the Joint Collector, Anantapur District, who ordered *status quo* on 29.5.2006. As the Joint Collector has no jurisdiction to interfere in the matter, the petitioner again chose to file the present writ petition assailing the proceedings of the second respondent dated 07.4.2000 whereby and whereunder the second respondent accepted the surrender of land admeasuring Acs.27.49 by the legal heirs of the original declarant, under Section 10(3) of the Act. The petitioner contends that no notice was issued by the second respondent while accepting the surrender and that the second respondent ignored the orders of this Court in C.R.P. No.4120 of 1978.

The writ petition is filed assailing the proceedings of the second respondent dated 07.4.2000, after lapse of about six years. Indeed, at the stage of preliminary hearing, it was brought to the notice of this Court that the petitioner could as well have approached the LRAT for redressal. However, as it is assailed that the assignment of land in survey Nos.105, 142/B and 175/A is contrary to the order of this Court in C.R.P. No.4120 of 1978, this Court directed the learned Assistant Government Pleader for Revenue (General) to file counter affidavit and produce the relevant records. The third respondent has filed a counter affidavit at the stage of admission itself. Therefore, the matter was heard finally and is being disposed of by this order.

The gist of the counter affidavit filed by the respondents shows the following. While passing orders in C.R.P.No.4120 of 1978 on 25.1.1979, this Court has not ordered to exclude the land in particular survey numbers to be allotted to illatom son-in-law, but only stated that the petitioner is entitled to a share of Acs.25.00 and, therefore, the same has to be excluded from the holding of the declarant. After the orders of the High Court, LRT, Dharmavaram, passed fresh orders on 29.8.1998 declaring late Hanumanthappa as surplus landholder to an extent of 0.615 Standard Holdings (SHs) duly deducting Acs.25.00 and other extents of non-agricultural lands. Accordingly, notice in Form-VI was issued to the legal heirs of the declarant under Rule 7(1) of Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings)

Rules, 1973 (the Rules, for brevity), advising the legal heirs of the declarant to propose the lands to be surrendered. Though the notice was served on 28.11.1998 on the legal heirs, namely, Lakshmidevamma, Parvathamma and also daughters Maramma and Thippamma, they failed to file statement of surrender. Accordingly, the land admeasuring Acs.63.07 in survey Nos.105, 106/B, 140, 142/B, 144/A, 144/B, 145 and 173-C/3B situated at Udagolam Village were selected under Section 10(5) of the Act for surrender. During the enquiry, it was noticed that the declarant himself had sold the land in survey Nos.140 (Acs.15.35), 144/A (Acs.3.00), 144/B (Acs.3.35) and 145 (Acs.13.88) to third parties, and that the land in survey Nos.105 (Acs.12.18), 106/B (Acs.1.81), 142/B (Acs.6.25) and 173-C/3B (Acs.7.25) is under enjoyment of the declarant. Accordingly, notice in Form-VIII was issued to the general public and Smt.Maramma, wife of the petitioner herein, calling for objections. The legal heirs of the declarant did not file any objections and, therefore, orders were passed under Section 10(3) of the Act on 07.4.2000 accepting the surrender of the land in survey Nos.140, 144/A, 144/B and 145, and possession was taken duly recording the same in Form-X. By proceedings dated 10.10.2000, the land was assigned to forty nine (49) landless and poor persons. These assignees could not enter the land in view of the threats by the petitioner and, therefore, the Mandal Revenue Officer, Kanikal Mandal (MRO), initiated steps on 12.4.2006 to handover the land to the assignees. As ordered by the High Court, the petitioner did not file any declaration and in the absence of any specific orders, the petitioner cannot claim the land, which is already assigned to landless and poor persons.

The petitioner has not filed any reply affidavit denying the counter averments. Be that as it is, learned Counsel for the petitioner contends that as per the orders of this Court in C.R.P.No.4120 of 1978, the lands in survey Nos.105, 142/B and 175/A ought to have been excluded from the holding of late Hanumanthappa and that surrender of those lands is illegal. **Per contra**, learned Assistant Government Pleader submits that though this Court held that the petitioner is entitled for Acs.25.00 of land being the illatom son-in-law of the declarant, this Court never ordered to exclude the lands in survey Nos.105, 142/B and 175/A from the holding of the declarant for being allotted to the petitioner. Both the counsel placed reliance on the order dated 25.1.1979 in C.R.P.No.4120 of 1978.

There is no dispute regarding the background of the case in

relation to the filing of declaration by late Hanumanthappa, determination of surplus land and the order of this Court to re-determine the holding of the declarant, after excluding Acs.25.00 of land in favour of the petitioner. What was the land directed to be excluded? In C.R.P.No.4120 of 1978, this Court considered three points, namely: (i) Whether the illatom son-in-law can be said to be in the possession of Acs.25.00 of wetland in his own right or that, that extent of the land can be said to be held by the petitioner alone; (ii) Whether the lands in survey Nos.140, 142/B, 144/A and 173-C/3B are to be treated as dry lands wile computing the holding of Hanumanthappa; and (iii) Whether the land covered by agreement of sale dated 20.11.1970 should be excluded from the holding of the petitioner.

On the first point, this Court held as under.

> What the son-in-law is now claiming is a specified share by virtue of the agreement between him and the father-in-law at the time of taking him as an illatom son-in-law and by virtue of the status which he has acquired as a son-in-law since he has married the daughter of his father-in-law. I, therefore, hold that an extent of Acs.25.00 of wetland which is computed in the holding of the petitioner shall be excluded in determining the surplus, if any, liable to be surrendered by the petitioner. The findings of both the Tribunals below to the contrary in this behalf are, therefore, set aside.

On point No.2, this Court held that the land in survey Nos.140, 142/B and 173/C are to be treated as dry lands while computing the holding of Hanumanthappa and point No.3 was answered rejecting the claim to exclude the land covered by agreement dated 20.11.1970. Nowhere this Court specifically gave a direction that the petitioner herein should be allotted land admeasuring Acs.25.00 in survey Nos.105, 142/B and 175/A. Therefore, the contention lacks merit. If the petitioner has any grievance regarding the surrender proceedings, he has to approach the LRAT by way of an appeal, subject to seeking condonation of delay in filing appeal. In this writ petition, no relief can be granted.

The writ petition is, therefore, dismissed. No costs.

_____

(**V.V.S.RAO, J**)

September 19, 2006.
YS

[1] In Andhra an illatom son-in-law is a boy incorporated into the family with a view to give a daughter in marriage and is customarily recognized as an heir in the absence of a natural son. (See **P.Ramanatha Aiyar's Law Lexicon** p.869)